

Civ. App 78/2019

IN THE COURT OF APPEAL OF SIERRA LEONE

Between: FLORENCE CAMPBELL
(Suing by her Attorney BABARA BANGURA) - Appellant

And : MOHAMED TUNDE MACARTHY - Respondent

CORAM

HON. MR. JUSTICE ALLAN B. HALLOWAY JSC
HON. MRS. JUSTICE JAMESINA E.L. KING JA
HON. MRS. JUSTICE F. BINTU ALHADI JA

COUNSEL

R. JOHNSON ESQ. for the Appellant
C. HOTTOBAH-DURING ESQ. for the Respondent

JUDGEMENT

DELIVERED this 12th day of July 2022

FLORENCE CAMPBELL, the Appellant herein being aggrieved by and dissatisfied with the Decision/Judgement of the High Court delivered by the **HON. MRS JUSTICE MUSU D. KAMARA JA**, the Learned Trial Judge, dated the 27th May 2019, hereby on the 15th August 2019, appeal the said Decision/Judgement on the following grounds:

1. That the Learned Trial Judge misdirected herself and erred in law when she held that the title of the Administratrix to sell is an administrative requirement which, even if absent does not nullify the title to the property, the Learned Trial Judge who failed to properly construe Section 21(1) of the **ADMINISTRATION OF ESTATES ACT, CHAPTER 45 OF THE LAWS OF SIERRA LEONE 1960**, thereby resulting in the erroneous decision to dismiss the Appellant's case.
2. That the Learned Trial Judge failed to properly determine the issues and evidence in the matter as presented to her, but instead took into consideration irrelevant and inapplicable matters, legal principles and laws which resulted in her erroneous decision to dismiss the Appellant's case.



3. That the Learned Trial Judge was wrong when she held that the Respondent was a Bona Fide Purchaser of a Legal Estate for Value without Notice, in respect of the property at 22 Waterloo Street, Freetown.
4. That the Learned Trial Judge was wrong in holding that ANNIE MAVIS CAMPBELL had a valid title to the property at 22 Waterloo Street, Freetown which she passed on to the Respondent.
5. That the Decision/Judgement of the High Court aforesaid, dated 27th May 2019 is against the weight of evidence.

Wherefore FLORENCE CAMPBELL, the Appellant herein pray as follows:

1. That the Decision/Judgement of the High Court delivered by the **HON. MRS JUSTICE MUSU D. KAMARA JA** dated 27th May 2019, be set aside and that a Decision/Judgement be entered in favour of the Appellant.
2. That this Court do make any further or consequential order(s) that it may deem necessary.
3. That the costs of and occasioned by the appeal herein and in the Court below be borne by the Respondent.

The **HON. MRS JUSTICE MUSU D. KAMARA JA**, the Learned Trial Judge, on the 27th May 2019, **ADJUDGED** and **ORDERED** that MOHAMED TUNDE MACARTHY, the Respondent herein is entitled to possession of the property at 22 Waterloo Street, Freetown as the Bona Fide Purchaser of the Legal Estate for Value without Notice, which said order was granted pursuant to an application filed for and on behalf of FLORENCE CAMPBELL, the Appellant by Originating Summons dated 21st May 2012, praying for the determination of the following questions:

1. Whether the Vesting Deed dated 9th May 2006, made by ANNIE MAVIS CAMPBELL in her capacity as Administratrix of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate and registered at Page 18 in Volume 603 of the Record Books of Conveyances kept in the Office of the Registrar General in Freetown, vesting all that property forming part of the said Estate situate at 22 Waterloo Street Freetown, in the said ANNIE MAVIS CAMPBELL is valid.



2. Whether the said ANNIE MAVIS CAMPBELL in her capacity as Administratrix of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate, was entitled to vest all that property forming part of the said Estate situated at 22 Waterloo Street, Freetown in herself to the exclusion of the other beneficiaries of the said Estate or a sale of their respective shares in the said property to the Respondent, without their consent.
3. Whether the sale of the said property of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate situated at 22 Waterloo Street, Freetown by the said ANNIE MAVIS CAMPBELL to the Respondent is valid without the consent of all the beneficiaries of the said estate or the order of a Court or Judge.

The Appellant, by way of the Originating summons aforesaid sought the following reliefs:

1. That if the Vesting Deed dated 9th May 2006 aforesaid, is invalid and that if the said ANNIE MAVIS CAMPBELL was not entitled to vest all that property situated at 22 Waterloo Street in herself to the exclusion of the other beneficiaries of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate or a sale of their respective shares in the said property to the Respondent without their consent, the Appellant sought an order that the vesting of the said property by the said ANNIE MAVIS CAMPBELL be declared invalid and be set aside and that the said Vesting Deed be expunged from the Record Books of Conveyances.
2. That if the sale of the property forming part of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate at 22 Waterloo Street Freetown, without the consent of all the beneficiaries of the said Estate or without an order of the Court or a Judge is invalid, the Appellant sought an order that the sale aforesaid be declared invalid and be set aside and an order that the Deed of Conveyance dated 6th July 2010 and made between the said ANNIE MAVIS CAMPBELL and the Respondent and registered at page 42 in Volume 663 of the Record Books of Conveyances kept in the Office of the Registrar General in Freetown in respect of the property of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate situated at 22 Waterloo Street, Freetown be expunged from the said Record Books of Conveyances.
3. The Appellant sought an order that the property aforesaid be immediately recovered from the Respondent by the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate.



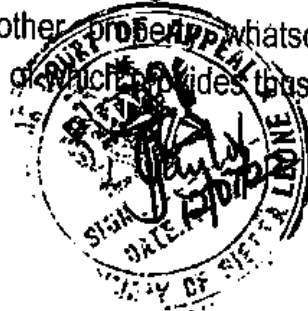
4. The Appellant sought an order for any further or other relief(s) that the Honourable Judge may deem fit.
5. The Appellant sought an order for Costs

The undisputed facts are that on the 29th April 2001, CLAUDE VICTOR MELVINSON CAMPBELL died Intestate in the United Kingdom. That at the time of his death he was survived by his widow ANNIE MAVIS CAMPBELL and his daughters, FLORENCE CAMPBELL, the Appellant herein and CLAUDIA CAMPBELL. On the 31st May 2001, ANNIE MAVIS CAMPBELL the mother of FLORENCE CAMPBELL, the Appellant herein and CLAUDIA CAMPBELL took out and was granted Letters of Administration in respect of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate. On the 3rd May 2012, ANNIE MAVIS CAMPBELL took out and was granted Supplemental Letters of Administration in respect of the Estate of the Deceased Intestate aforesaid, the same which is found at pages 22 to 43 of the Records of Appeal. In the Supplemental Letters of Administration aforesaid, ANNIE MAVIS CAMPBELL declared the property at 22 Waterloo Street, Freetown the subject matter of the appeal herein, as forming part of the Estate of the said Deceased Intestate. On the 9th May 2006, ANNIE MAVIS CAMPBELL vested in herself, the entire property at 22 Waterloo Street, Freetown, the Vesting Deed of which is registered at Page 18 in Volume 603 of the Record Books of Conveyances kept in the office of the Registrar General in Freetown and found at pages 43 to 46 of the Records of Appeal herein. On the 6th July 2010, ANNIE MAVIS CAMPBELL sold the property at 22 Waterloo Street, Freetown to MOHAMED TUNDE MARCARTHY, the Respondent, the Deed of Conveyance of which is registered at Page 42 in Volume 663 of the Record Books of Conveyances kept in the office of the Registrar General in Freetown and found at pages 48 to 52 of the Records of Appeal.

It cannot be disputed, that prior to the enactment of the **DEVOLUTION OF ESTATES ACT 2007**, it was only the **ADMINISTRATION OF ESTATES ACT CHAPTER 45 OF THE LAWS OF SIERRA LEONE 1960**, which was the applicable law governing the Estate of all persons dying Intestate. In Section 2 of the said **ACT**, Estate is defined as:

'meaning all interest in land and chattels real and personal, choses in action and other property whatsoever'.

Being that it is an undisputed fact as stated above, that CLAUDE VICTOR MELVINSON CAMPBELL is a person who died Intestate, the applicable law governing all his interests in land and chattels real and personal, choses in action and other property whatsoever is the **ADMINISTRATION OF ESTATES ACT** aforesaid, Section 9(1) of which provides thus:



'The Estate of every person dying Intestate after the operation of this ACT shall devolve upon the Administrator and Registrar General, Provided that, upon the grant of Letters of Administration under the provision of the ACT, the Estate shall be divested from the Administrator and Registrar General and be vested in the person or persons to whom Letters of Administration has been granted as aforesaid'.

Being that it is an undisputed fact as stated above, that ANNIE MAVIS CAMPBELL took out and was granted Letters of Administration by the High Court of Sierra Leone in its Probate Jurisdiction on the 31st May 2001, the Estate of CLAUDE VICTOR MELVINSON CAMPBELL became divested from the Administrator and Registrar General, who was the official Administrator between the 29th April 2001 when CLAUDE VICTOR MELVINSON CAMPBELL died, up to the 30th May 2001 and was vested in ANNIE MAVIS CAMPBELL to whom Letters of Administration was granted on the 31st May 2001 aforesaid. Clearly, the duties of the said ANNIE MAVIS CAMPBELL, the Administratrix of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate included the distribution of all the said Deceased Intestate's interest in land and chattels real and personal, choses in action and other property whatsoever according to law, the property at 22 Waterloo Street, Freetown, the subject matter of the appeal herein, being part of the Deceased Intestate Estate and his interests in land, the same being an undisputed fact as stated above. By virtue of Section 19 of the **ADMINISTRATION OF ESTATES ACT CHAPTER 45 OF THE LAWS OF SIERRA LEONE 1960**, after ANNIE MAVIS CAMPBELL the Administratrix of the Deceased Intestate aforesaid, may have made certain disbursements and payments outlined in the said Section, she shall dispose of the Estate aforesaid to the persons beneficially entitled on an intestacy as provided for in the Second Schedule of Section 19 hereof as follows:

'If a man dies intestate leaving a widow and children or issue, the widow shall be entitled to one-third of the Estate and the children or issue the remaining two-thirds between them per stirpes'.

Being that it is an undisputed fact as stated above, that CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate was on his death, survived by his widow ANNIE MAVIS CAMPBELL, the Administratrix of the Estate aforesaid and two daughters, FLORENCE CAMPBELL, the Appellant herein and CLAUDIA CAMPBELL, the said ANNIE MAVIS CAMPBELL should have vested in herself only one-third of the property at 22 Waterloo Street, Freetown and the remaining two-third to FLORENCE CAMPBELL, the Appellant herein and CLAUDIA CAMPBELL in equal shares. This means that ANNIE MAVIS CAMPBELL, FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL should have each owned One -Third undivided share of the property at 22 Waterloo Street, Freetown. By virtue of Section 9 of the **DEVOLUTION OF ESTATES ACT 2007** which provides how, property at 22 Waterloo Street,

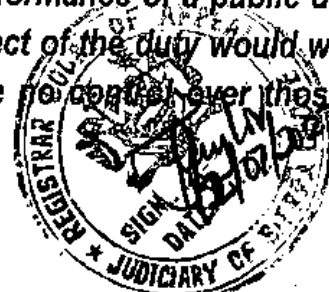


Freetown, devolving to a spouse and children should be held, all three persons aforesaid, should hold the said property as tenants in common. Clearly, this Court holds the view that the vesting of the property at Waterloo Street, Freetown by the said ANNIE MAVIS CAMPBELL in herself alone was a flagrant breach of the Second Schedule to Section 19 of the **ADMINISTRATION OF ESTATES ACT** aforesaid. Certainly, the Vesting Deed dated the 9th May 2006 aforesaid is **INVALID, NULL and VOID** and of **NO EFFECT**, by reason of which the property at 22 Waterloo Street, which was purportedly vested by ANNIE MAVIS CAMPBELL in herself is still part of the Estate of the Deceased Intestate herein. In this regard and being that it is an undisputed fact that ANNIE MAVIS CAMPBELL sold the property at 22 Waterloo Street, Freetown to MOHAMED TUNDE MARCARTHY, the said property being part of the Estate of the Deceased Intestate aforesaid, her actions aforesaid, was subject to Section 21(1) of the **ADMINISTRATION OF ESTATES ACT** aforesaid, the same which provides thus:

'No land forming part of the Estate of an intestate shall be sold by the official Administrator or any Administrator without the consent of all persons beneficially interested or the order of the Court or Judge thereof for that purpose first obtained'.

The entire Decision/Judgement of the **HON. MRS JUSTICE MUSU D. KAMARA JA**, the Learned Trial Judge, is based on whether compliance with the provision aforesaid, is mandatory, its breach of which would render any action in that regard a nullity or whether compliance with the same aforesaid, is directory, which gives one an option to comply or not, depending on the circumstances of the case. The Learned Trial Judge in her Decision/Judgement aforesaid relied on the case between **LAHAI TAYLOR** and **THE SHERIFF & ZIZER** 1968/69 ALR SL pages 35-44 stating that in the said case, the Court of Appeal of Sierra Leone was faced with the decision as to whether the use of the word 'shall' in Sections 9 and 10 of the **EXECUTION AGAINST REAL PROPERTY ACT, CHAPTER 22 OF THE LAWS OF SIERRA LEONE 1960** was directory or mandatory, the Court of Appeal holding that it was only directory. The Learned Trial Judge stated that for the Court of Appeal to reach a conclusion that the word 'shall' in these sections above is directory, they took into consideration the case between **MONTREAL STREET RAILWAY CO.** and **NORMANDIN** (1917) AC page 170 where **SIR ARTHUR CAMPBELL** said this:

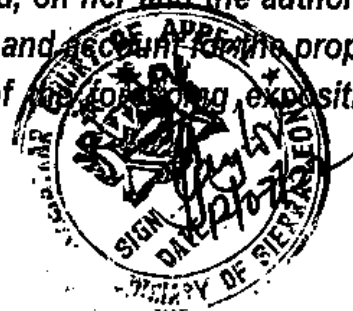
'the question whether provisions of a statute are directory or imperative has very frequently arisen in this country, but it has been said that no general rule can be laid down and that in every case the object of the statute must be looked at. The cases on the subject will be found collected in the 5th Edition of MAXWELL ON STATUTES at page 596 and the following pages. When the provisions of a statute relate to the performance of a public duty and the case is such that to hold null and void acts done in neglect of the duty would work serious general inconvenience or injustice to persons who have no control over these entrusted



with the duty and at the same time would not promote the main object of the legislature, it has been the practice to hold such provisions to be directory only, the neglect of them, though punishable, not affecting the validity of the acts done'.

The Learned Trial Judge in her Decision/Judgement aforesaid went on to state that on the authority above, **TAMBIAH JA** in the case between **LAHAI TAYLOR** and **THE SHERIFF & ZIZER** cited above, held that there is no reason for him to hold, that if there is non-observance of a public duty by the Sheriff of Sierra Leone to advertise the property, he has to sell in a particular way, a Bona Fide Purchaser who bought same under such circumstances and who has no control over the actions of the Sheriff of Sierra Leone, should suffer prejudice. It is in this regard, that the Learned Trial Judge in this matter, determined whether compliance with Section 21(1) of the **ADMINISTRATION OF ESTATES ACT, CHAPTER 45 OF THE LAWS OF SIERRA LEONE 1960** is Mandatory or Directory and had this to say in that regard:

*'In the same way, there is no reason for one to hold that if there is non-observance of a public duty by an Administrator appointed by the Courts and given power to administer, deal with and to account with respect to the property so vested and they themselves being beneficiaries too, fail to obtain the consent to sell from some interested beneficiaries, a bona fide purchaser who has no control over the actions of the Administrator shall suffer prejudice. I hold, that title of the Administratrix to sell is not based on consent or lack of consent. The consent to sell is an administrative requirement which even if absent does not nullify the title to the property. It is whether the Deceased owner **CLAUDE VICTOR MELVINSON CAMPBELL** had good title that mattered as to whether she obtained an indefeasible title and passed on same. There is no issue of the Deceased owner not being the owner of the property in question or he having a bad title. The Administratrix is a personal representative and next of kin of the Deceased. When she assumed the office at his death she attained what the Deceased had before he died, the Legal Estate which she passed to herself by a Vesting Deed from the Administratrix, as legal owner/personal representative, to the Administratrix as beneficiary. She having obtained the Letters of Administration on the 31st May 2001 and the Vesting Deed on the 7th May 2006, this is equivalent to the legal Estate of the portion of the Estate referred to therein of **CLAUDE VICTOR MELVINSON CAMPBELL** with a valid title to pass. The Administratrix as vendor did not only obtain a valid indefeasible title but was also able to pass on same to the Respondent herein. In sum, it is whether the Deceased Intestate had good title, which he did have, that is the basis for the Administratrix having title. The Letters of Administration on the other hand is evidence that title had been so conferred, on her and the authority given by the Court for the Administratrix to administer, deal with and account for the property that has been so vested into her hands. On the backdrop of the foregoing exposition, with*



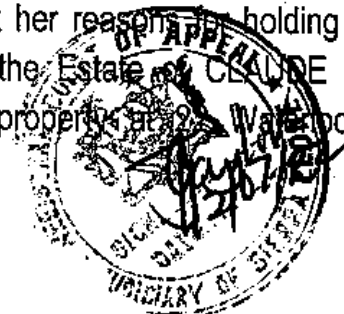
regards the use of the word 'shall' in Section 21(1) of the ADMINISTRATION OF ESTATES ACT, CHAPTER 45 aforesaid, is directory and not mandatory. The object of the statute, the lack of penalty and the Administratrix office or duty being a public duty are all justification, to come to that conclusion'.

The excerpt above from the Decision/Judgement of the **HON. MRS JUSTICE MUSU D. KAMARA JA**, the Learned Trial Judge, reveals that one of her reasons for declaring that the word 'shall' in Section 21(1) of **CHAPTER 45** aforesaid, is directory, is because of the lack of some penalty prescribed in the Section aforesaid, if the same is not complied with. This Court holds the view that the Learned Trial Judge misconstrued Section 21(1) aforesaid, in that where a statute imposes conditions before something can be done, it is an absolute enactment and the Court will treat such thing which is done as invalid and altogether void if those conditions are not fulfilled. In the case between **THWAITES** and **WILDING** 1883 12 QBD 4, where Section 1 of the **LODGERS GOODS PROTECTION ACT 1821** required that a Lodger makes a declaration 'after distress has been levied or any such events authorised or threatened', the Court was of the view that if the declaration is made before any of these events have occurred, then the conditions for the protective scope of the statute will not have been invoked. The Court in holding that the Lodger's declaration was invalid and void for not complying with the conditions as stipulated in the **ACT**, had this to say at page 6:

'...the words of the statute are imperative. It is said that the construction in favour of the Defendants will render the statute ineffectual to protect Lodgers. I do not think so; the Legislature has imposed conditions and these conditions must be rigidly complied with in order to deprive the Landlord of his remedy at Common Law and to bring the Lodger within the protection of the statute'.

Clearly, Section 21(1) of **CHAPTER 45** imposes the condition directed to an Administrator of the Estate of a Deceased Intestate for him to obtain the consent of all persons beneficially entitled to the Estate of a Deceased Intestate to a sale of land forming part of the Estate aforesaid, or an order of the Court or a Judge in that regard, be obtained before the sale aforesaid can proceed. Surely, if without the said Section 21(1) aforesaid, expressly saying so, any act of sale and purported transfer of land forming part of an Estate of a Deceased Intestate, will be rendered invalid and altogether void if the conditions imposed aforesaid, are not complied with.

In addition to the above, the excerpt from the Decision/Judgement of the **HON. MRS JUSTICE MUSU D. KAMARA JA**, the Learned Trial Judge, reveals that her reasons for holding that the actions of **ANNIE MAVIS CAMPBELL**, the Administratrix of the Estate of **CLAUDE VICTOR MELVINSON CAMPBELL** (Deceased) Intestate to sell the property at 2 Waterloo Street,



Freetown was not based on consent or lack of consent of the beneficiaries of the Deceased Intestate aforesaid. The Learned Trial Judge stated that the consent of the beneficiaries is an administrative requirement which even if absent does not nullify the title which the Administratrix had to sell the property aforesaid. She stated, that what mattered is whether the Deceased Intestate had good title to the property, which said title the Deceased Intestate had and passed on an indefeasible title to ANNIE MAVIS CAMPBELL, the Administratrix of the Estate of the Deceased Intestate aforesaid. It should be pointed out, that the fact that ANNIE MAVIS CAMPBELL was granted Letters of Administration of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate does not make her owner of the Legal Estate or indeed beneficial owner possessed with title, with powers to dispose of the properties belonging to the Estate of the Deceased Intestate and in particular 22 Waterloo Street, Freetown. Section 15 of the **ADMINISTRATION OF ESTATES ACT, CHAPTER 45 OF THE LAWS OF SIERRA LEONE 1960** provides thus:

'The official Administrator and every Administrator appointed under this ACT shall be deemed a Trustee within the meaning of any statute now or hereafter to be in force relating to Trusts and Trustees'.

Clearly, ANNIE MAVIS CAMPBELL, the appointed Administratrix of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL Deceased Intestate is a Trustee, who holds the properties both real and personal of the Deceased Intestate aforesaid, in trust for all the beneficiaries of the said Estates including herself, FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL, the said ANNIE MAVIS CAMPBELL, undisputedly being possessed with the Legal Rights to the Estate of the Deceased Intestate and the beneficiaries of the said Estate, possessed with the Equitable Rights to the same. In other words the said ANNIE MAVIS CAMPBELL as Trustee has the Legal Right or the power to administer and distribute the Estate of the Deceased Intestate aforesaid amongst the Beneficiaries in accordance with the **ADMINISTRATION OF ESTATES ACT, CHAPTER 45 OF THE LAWS OF SIERRA LEONE** and in particular, in accordance with the Second Schedule of Section 19 of the said **ACT**. In this regard, it surely cannot be said that on the appointment of her as Administratrix of the Estate aforesaid, the indefeasible title of CLAUDE VICTOR MELVINSON CAMPBELL in the properties forming part of his Estate was passed on to her. It is herself, who would be the vehicle used to pass on the indefeasible title of the Deceased Intestate aforesaid, in the properties forming part of his Estate, by the administration and distribution of the Estate in accordance with the law aforesaid. In the 9th Edition of **BLACK'S LAW DICTIONARY**, Title has been defined at page 1622 as follows:



'The Union of all elements (as ownership, possession and custody) constituting the legal right to control and dispose of property, the legal link between a person who owns property and property itself'.

This Court holds the view, that on her appointment as Administratrix of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate, ANNIE MAVIS CAMPBELL did not have ownership, possession and custody, all constituting the legal rights to control and dispose of the real properties forming part of the Estate of the Deceased Intestate. All she had at the time of her appointment was the legal right to administer and distribute the Estate of the Deceased Intestate amongst the Beneficiaries in accordance with the law aforesaid. Clearly, it is the exercise of this legal right which ANNIE MAVIS CAMPBELL became possessed of on her appointment as Administratrix, that would pass on the indefeasible title of CLAUDE VICTOR MELVINSON CAMPBELL in the properties forming part of his Estate aforesaid to those persons entitled to it by virtue of the provisions of the **ADMINISTRTRION OF ESTATES ACT, CHAPTER 45 OF THE LAWS OF SIERRA LEONE 1960**. In other words, to those possessed with the equitable rights to the Estate of the Deceased Intestate, they being ANNIE MAVIS CAMPBELL the Administratrix herself, FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL, all three having one-third undivided share each as tenants in common in all properties forming part of the said Estate particularly the real properties.

Certainly, if it were the case that the indefeasible title of the Deceased Intestate in the properties forming part of his Estate aforesaid were passed on to ANNIE MAVIS CAMPBELL on her appointment as Administratrix, then there would have been no need for her to exercise the legal rights to the Estate aforesaid, which she became possessed of on her appointment aforesaid. In this regard, it is because of the fact that she was not possessed of the indefeasible title aforesaid, which is the reason why she would have to exercise this legal right by taking the further step of vesting by Deed, the properties forming the Estate of the Deceased Intestate to those beneficially entitled to it, they being herself, FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL, all three having one-third undivided share each as Tenants in Common. It is only when the properties are vested as aforesaid, that any or all of them would have the indefeasible title or the ownership, possession and custody, constituting the legal right to control and dispose of the properties, particularly those that are real, forming part of the Estate of the Deceased Intestate. It is in this regard, that this Court came to the conclusion that the Vesting Deed dated 9th May 2006 aforesaid is **INVALID, NULL and VOID** and of **NO EFFECT** since ANNIE MAVIS CAMPBELL should have vested the property at Waterloo Street Freetown, the said property which was part of the Estate of the Deceased Intestate not only in herself alone but to herself, FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL as Tenants in Common in equal share and share alike.



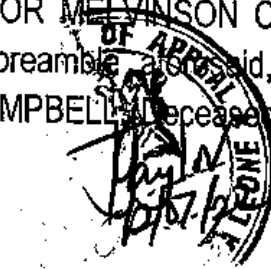
It is clear from the excerpt above from the Decision/Judgement of the **HON. MRS JUSTICE MUSU D. KAMARA JA**, that the case between **MONTREAL STREET RAILWAY CO.** and **NORMANDIN TAYLOR** and **THE SHERIFF & ZIZER** cited above, based its decision on and which said decision the Learned Trial Judge followed in this case, as regards provisions of a statute which relates to the performance of a Public Duty. Clearly the distinction between the **MONTREAL STREET RAILWAY CO.** case and this case is the fact that the provisions of Section 21(1) of the **ADMINISTRATION OF ESTATES ACT, CHAPTER 45** aforesaid, do not in any way relate to the performance of a Public Duty, which said provision categorically prohibits the Administrator of a Deceased Intestate from selling land which forms part of the Estate of the Deceased Intestate unless all persons beneficially interested give consent for the sale or an order of the Court or Judge is first obtained. It is an Administrator's duty which does not in any way involve the public and involve only those beneficially interested in the said land. In this regard, the reference to that portion of the 5th Edition of **MAXWELL ON STATUTES** in the **MONTREAL STREET RAILWAY CO.** case will definitely be inapplicable in the case herein. In the 12th Edition of **MAXWELL ON INTERPRETATION OF STATUTES** on 'IMPERATIVE AND DIRECTORY ENACTMENTS' under the rubric 'Cases in which statutory requirements have been held to be mandatory' at pages 315 to 316, it is stipulated thus:

'where the whole aim and object of the legislature would be plainly defeated if the command to do the thing in a particular manner did not imply a prohibition on doing it in any other, no doubt can be entertained as to the intention'.

It follows from the above stipulation that what this Court must first determine is the whole aim and object of the **ADMINISTRATION OF ESTATES ACT, CHAPTER 45 OF THE LAWS OF SIERRA LEONE 1960**. Clearly the whole aim and object of the said **ACT** could be found in its preamble which states in part as follows:

'An ACT to provide for the appointment of an official Administrator of Estates and to regulate the administration of Estates and the distribution of Intestate Estates'....

It has been made quite clear that the official Administrator is the Administrator and Registrar General and he takes office immediately upon the death of an Intestate and act in that capacity until Letters of Administration is granted by the High Court to a Next of Kin and Personal Representative of a Deceased Intestate. In this case, it is ANNIE MAVIS CAMPBELL who was granted Letters of Administration of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL Deceased Intestate on the 31st May 2001. By virtue of the preamble aforesaid, it is her administration of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate

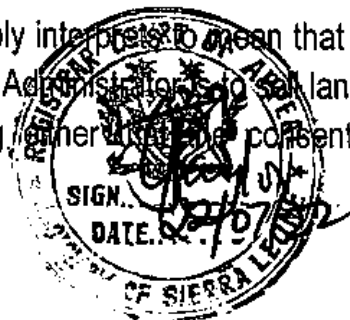


and the distribution of the said Estate, the said Estate which comprises all interest in land and chattels real and personal, choses in action and other property whatsoever held by the Deceased Intestate before his death, that the **ADMINISTRATION OF ESTATES ACT** aforesaid, seek to regulate. Clearly, the fact that ANNIE MAVIS CAMPBELL was appointed by the High Court of Sierra Leone to administer and distribute the Estate of the Deceased Intestate suggests that there are persons including herself who are beneficially interested and entitled to the Estate those persons being undoubtedly, FLORENCE CAMPBELL, the Appellant herein and CLAUDIA CAMPBELL.

Undisputedly, it is the beneficial interest of all those persons who are entitled to the Estate of the Deceased Intestate including FLORENCE CAMPBELL, the Appellant herein and CLAUDIA CAMPBELL, that the provisions of the **ADMINISTRATION OF ESTATES ACT, CHAPTER 45 OF THE LAWS OF SIERRA LEONE 1960** seek to protect, the same being made abundantly clear in its preamble aforesaid, 'as an **ACT to provide for the regulation of the administration of Estates and the distribution of Intestate Estates**'. If it is the case, that Section 21 (1) of CHAPTER 45 aforesaid were interpreted as giving a directory meaning, such that the command given to the Administrator of a Deceased Intestate '**not to sell any land forming part of the Estate of a Deceased Intestate without the consent of all persons beneficially interested in the same or by an order of the Court or a Judge**', does not imply a prohibition on the Administrator, then in this case, the said ANNIE MAVIS CAMPBELL would be free to dispose of the entire Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate without any regard to the beneficial interest of FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL in the Estate aforesaid. This Court holds the view that the consequences of giving such a directory meaning to Section 21(1) aforesaid, will be disastrous since it will open the floodgates to the illegal disposition of property by Administrators without the consent of other beneficiaries whose interests are directly affected. The gravity of such a directory construction of Section 21(1) of **CHAPTER 45** aforesaid has been captured by the dictum of **LORD PENZANCE** in the case between **HOWARD and DOGINGTON** (1877) 2 PD 203, 211 at page 217 thus:

'I think the statute has prescribed a particular form to be followed and that the Court is not at liberty to cast the time mentioned aside, upon any speculation as to the possible reasons why that particular provision was adopted. I foresee, that were the Court to take an opposite view, it would be very difficult to know where to stop in future and very difficult to work out this Act in a way in which I think the Legislature intended it to be worked out'.

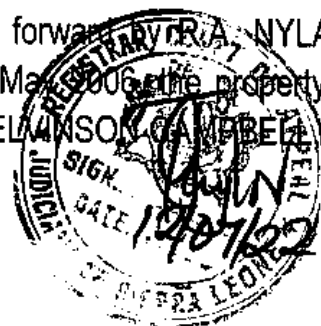
The dictum above when related to the case herein, simply interpreted to mean that Section 21(1) of **CHAPTER 45** has prescribed a form to be followed if an Administrator is to sell land forming part of the Estate of a Deceased Intestate, the same being **not to sell any land forming part of the Estate of a Deceased Intestate without the consent of all persons**



beneficially entitled to the said Estate is sought or that an order of the Court or a Judge in that regard first obtained and that the Court is not at liberty to cast the provision aside upon any speculation as to the possible reasons why it should be adopted. If this Court were to take the opposite view of the contents of Section 21(1) aforesaid, in that Administrators of Estates need not seek the consent of all those beneficially interested in the Estate of a Deceased Intestate or obtain an order of the Court or a Judge before land forming part of the said Estate is sold, the consequences of which are, that those beneficially entitled to an Estate of a Deceased Intestate would almost always lose their entitlement, it would be very difficult to know where such loss of their entitlement is to stop in the future and very difficult also to work the provisions of Section 21(1) aforesaid, in the way in which the Legislature intended it to be worked out. Surely, it cannot be disputed that in this regard, the whole aim and object of the **ADMINISTRATION OF ESTATES ACT, CHAPTER 45 OF THE LAWS OF SIERRA LEONE 1960**, the same being to protect those persons beneficially interested and entitled to the Estate of a Deceased Intestate pursuant to the provisions of the said **ACT** aimed at regulating the administration of Estates and the distribution of Intestates Estates would have plainly been defeated. Accordingly, this Court holds the view that the intentions of the legislature that the provisions of Section 21(1) of **CHAPTER 45** aforesaid, are 'Mandatory' should not be in any doubt whatsoever.

As stated above, if the Vesting Deed dated the 9th May 2006 aforesaid, is **INVALID, NULL** and **VOID** and of **NO EFFECT**, by reason that ANNIE MAVIS CAMPBELL ought not to have vested the property at 22 Waterloo Street, Freetown in herself alone, then it is the case, that the said property is still property forming part of the Estate of the Deceased Intestate, herein and the legal rights possessed by ANNIE MAVIS CAMPBELL on her appointment as Administratrix of the Estate aforesaid to administer and distribute the said Estate of the Deceased Intestate to the beneficiaries in accordance with the **ADMINISTRATION OF ESTATES ACT, CHAPTER 45 OF THE LAWS OF SIERRA LEONE 1960** still remains to be exercised. It stands to reason, that if there were any intention by ANNIE MAVIS CAMPBELL, the Administratrix of the Estate of the Deceased Intestate aforesaid, to sell any real property forming part of the said Estate, then all those who are beneficially interested in those real properties whose equitable rights to them would be affected by its sale aforesaid, would have to consent to the said sale or if it is the case that withholding of such consent were unreasonable, or that a beneficiary could not be found, an order of the Court or a Judge in that regard would have become necessary. This Court holds the view, that this is the reason for the provisions of Section 21(1) of **CHAPTER 45** aforesaid and the reason why it can be said that it is Mandatory on ANNIE MAVIS CAMPBELL to comply with the said provision.

The above analysis addresses a number of issues put forward by C.R.A. NYLANDER ESQ. of Counsel for the Respondent. His submission that as at May 2006 the property at 22 Waterloo Street, was not part of the Estate of CLAUDE VICTOR MELANSON CAMPBELL, rather it was the



freehold property of ANNIE MAVIS CAMPBELL as evidenced by the Vesting Deed dated 9th May 2006 aforesaid is clearly untenable. It has been conclusively determined above, that the vesting of the property at 22 Waterloo Street, Freetown in herself alone was **INVALID, NULL and VOID** and of **NO EFFECT**, since she should have vested the same, being property which is part of the Estate of the Deceased Intestate not only in herself alone but herself, FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL as Tenants in Common to share and share alike. Clearly, if it is the case that the Vesting Deed aforesaid was **INVALID, NULL and VOID** and of **NO EFFECT**, then, as determined above, the property at 22 Waterloo Street which is the subject of the Vesting Deed aforesaid, still remain as part of the Estate aforesaid and cannot be the freehold property of ANNIE MAVIS CAMPBELL. It follows that if the property at 22 Waterloo Street, Freetown aforesaid, still remains a part of the Estate of the Deceased Intestate, then ANNIE MAVIS CAMPBELL could only sell same as Administratrix of the said Estate and not as sole owner since as stated above, the said property cannot be her freehold property alone. Consequently, if she can only sell same as Administratrix, then compliance with Section 21(1) of the **ADMINISTRATION OF ESTATES ACT, CHAPTER 45 OF THE LAWS OF SIERRA LEONE 1960** is mandatory as determined above. In this regard, the submission of R.A. NYLANDER ESQ, that Section 21(1) aforesaid, is irrelevant and inapplicable to this case, is clearly untenable and is hereby overruled.

Undisputedly, the property at 22 Waterloo Street, Freetown, being land forming part of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate was sold by ANNIE MAVIS CAMPBELL, Administratrix of the Estate of the Deceased Intestate aforesaid, to the Respondent herein, by way of a Deed of Conveyance dated 6th July 2010 and registered at page 42 in Volume 663 of the Record Books of Conveyances kept in the office of the Registrar General in Freetown. Clearly, the said Conveyance did not recite that it was sold with the consent of all persons beneficially entitled to the property aforesaid and nowhere as contained in the evidence adduced, does it controvert the fact that it was sold by ANNIE MAVIS CAMPBELL without the consent of FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL, the other persons beneficially entitled to the said property. Conclusively, the provisions of Section 21(1) of the **ADMINISTRATION OF ESTATES ACT, CHAPTER 45 OF THE LAWS OF SIERRA LEONE 1960** was flagrantly breached, its breach aforesaid, which should otherwise render the sale aforesaid, **INVALID, VOID** and of **NO EFFECT**.

It has been established above that pursuant to Section 15 of **CHAPTER 45** aforesaid, ANNIE MAVIS CAMPBELL, on her appointment as Administratrix of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate, became a Trustee holding real properties forming part of the Estate of the Deceased Intestate aforesaid, being Trust properties including the property at 22 Waterloo Street Freetown, for and on behalf of herself, FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL. Undisputedly, the action herein is for the property at 22 Waterloo



Street aforesaid, the same being Trust property from the Respondent herein, by reason that it was sold to him in breach of the provisions of Section 21 (1) of **CHAPTER 45** aforesaid. R.A NYLANDER ESQ. of Counsel for the Respondent submitted that the appropriate person to bring an action against, is ANNIE MAVIS CAMPBELL, the Administratrix aforesaid, or her Estate and recover Damages from her Estate, if necessary as she was the one who sold to the Respondent. In this regard R.A. NYLANDER ESQ. relies on Section 25 and 26 of the **ADMINISTRATION OF ESTATES ACT, CHAPTER 45 OF THE LAWS OF SIERRA LEONE 1960**, the same which provides for the keeping, filing and giving of accounts by ANNIE MAVIS CAMPBELL, the Administratrix of the Deceased Intestate aforesaid, in breach of which, all the Beneficiaries of the said Estate, including the Appellant herein, could do is to take action against the said ANNIE MAVIS CAMPBELL.

In addressing the submissions of R.A NYLANDER ESQ. above it is necessary to compare the analysis of the facts herein with the analysis put forward in this regard, in the 1st Edition of **LAND TENURE IN SIERRA LEONE** by ADE RENNER-THOMAS on 'EQUITY AND THE LAW OF TRUST' under the rubric 'Legal and Equitable Estates' where at page 78 thereof, ADE RENNER-THOMAS posited as follows:

'Originally, any equitable ownership of land differed quite markedly from legal ownership. Thus, the interest conferred upon the beneficiaries of a trust was at first a 'right in personam', a right to proceed against the trustee personally to compel him to carry out his trust. It followed therefore, that any person other than the trustee into whose hands the trust property might come was not amenable to the jurisdiction of equity'.

It means that if this were the applicable law, the Appellant herein would have been unable to bring the present action against the Respondent herein in whose hands the property at 22 Waterloo Street, Freetown, being Trust property had come. Being that ANNIE MAVIS CAMPBELL, the Administratrix of the Estate of the Deceased Intestate aforesaid and Trustee holding Trust property in Trust for FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL was already in breach of the Trust aforesaid, by not complying with Section 21 (1) of **CHAPTER 45** aforesaid, the Appellant could only have proceeded against her personally and recovered from her only Damages, as the interest of the Appellant herein, who is a beneficiary to the Trust property aforesaid, conferred on her only a right in personam. ADE RENNER-THOMAS in his book aforesaid, at page 78 posited further that:

'According to MEGARRY and WADE in the 4th Edition of THE LAW OF PROPERTY by R.E. MEGARRY AND H.W.R. WADE at pages 66 to 67, the Chancery courts solved this problem by extending the categories of persons upon whom performance of the trust would be



enjoined. This involved the application of two basic equitable principles, the first being that a person who takes trust property without giving value in exchange must take it with all its burdens, equitable as well as legal, for it is said, equity does not assist volunteers. The second is a corollary of the principle of conscience which forms the basis of equitable intervention. A person who takes trust property knowing that the property is being transferred to him in breach of trust is bound by the trust and it does not matter that he has given value. In view of equity he becomes a Constructive Trustee'.

It follows from the above that from the position where the Appellant would have been unable to bring the present action against the Respondent, it now becomes possible for the Appellant to bring such an action against the Respondent herein, since such a Respondent who purchases Trust property, as in this case, need not have actual notice of the fact that ANNIE MAVIS CAMPBELL, the Administratrix of the Estate aforesaid, is the Trustee holding the property at 22 Waterloo Street, Freetown in trust for herself, FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL, but may be faced with constructive notice if he would have known of the Trust aforesaid, had he taken in the matter all such steps as a reasonable man would have taken. **ADE RENNER-THOMAS** in his Book aforesaid, posited at page 79 that the two principles above are summed up in the cardinal maxim expressed in the 4th Edition of '**THE LAW OF PROPERTY**' by **R.E. MEGARRY** and **H.W.R. WADE**, at page 114 in which is expressed the true difference between Legal and Equitable rights as follows:

'Legal rights are good against all the world; Equitable rights are good against all persons except a Bona Fide Purchaser of a Legal Estate for Value without Notice and those claiming under such a purchaser'.

It is absolutely clear from the above, that the Appellant herein can conveniently maintain the action herein against the Respondent alone, since he is the purchaser of 22 Waterloo Street aforesaid, the same being Trust property and the person in whom the Trust is now in the hands of as a Constructive Trustee. This is so because the action herein would confer on the Appellant a right in rem, in other words rights in the property at 22 Waterloo Street, Freetown itself as opposed to a right in personam, or rights in damages only. It is in this regard, that this Court would entirely overrule and dismiss the submissions of C. HOTOBA-DURING ESQ. of Counsel for the Respondent, that the interest of the beneficiaries i.e. FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL lie not in the physical properties in the Estate of CLAUDE VICTOR MELVINSON CAMPBELL Deceased Intestate, but in the proceeds of sale of the physical properties in the said Estate, a submission which this Court holds is based on his earlier submission that:



'it is trite law that upon the death of an Intestate, the Administrator (Trustee) holds the Estate aforesaid on Trust for sale with a duty to sell and distribute the proceeds amongst the beneficiaries'.

Regarding the above submission, C. HOTOBAH-DURING ESQ. references Section 15 of the **ADMINISTRATION OF ESTATES ACT, CHAPTER 45 OF THE LAWS OF SIERRA LEONE 1960** which provides for an Administrator on his appointment as such, 'to be deemed a Trustee within the meaning of any Imperial Statute or Local Act now or hereafter to be in force relating to trusts and trustees'. However, contrary to his submission aforesaid regarding 'Trusts for Sale' Section 15 aforesaid, makes no mention of the said Administrator being a Trustee for Sale, the same coupled with the fact that no Imperial Statute or Local Act now in force relating to trusts and trustees makes any mention of such. The reference by C. HOTOBAH-DURING ESQ. to Section 33 (1) of the **ADMINISTRATION OF ESTATES ACT 1965** in England, which provides that 'on the death of a person intestate as to any real or personal Estate, that Estate shall be held in trust by his representative with power to sell it' is not applicable in this jurisdiction, as it is not a statute of general application under Section 74 of the **COURTS ACT 1965** and there is no equivalent provision in **CHAPTER 45** aforesaid, under which ANNIE MAVIS CAMPBELL the Administratrix of the Estate aforesaid, has power to sell under a Trust for sale. Undisputedly, her powers to sell under **CHAPTER 45** aforesaid, are subject to the consent of both FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL or an order of the Court or a Judge first had and obtained, in accordance with Section 21 (1) of **CHAPTER 45** aforesaid.

The fact as established above, that ANNIE MAVIS CAMPBELL, the Administratrix of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate, never held the said Estate and in particular, the property at 22 Waterloo Street, Freetown on Trust for sale, supporting this Court's holding above, that the Appellant herein can conveniently maintain the action herein against the Respondent alone, conferring on the said Appellant a right in the property at 22 Waterloo Street, Freetown itself, as opposed to a right in damages only, is further illuminated by consideration of certain submissions made by Counsel for the Respondent. The submission by R.A. NYLANDER ESQ. that ANNIE MAVIS CAMPBELL, the Administratrix of the Estate of the Deceased Intestate is entitled to One third of the entire Estate aforesaid, but which can only be assessed when the entire Estate aforesaid is valued and not before is untenable, as the same seems to suggest that the Appellant herein cannot conveniently maintain the action herein against the Respondent as it is only a right to damages that has been conferred on her, which can only be assessed when the entire Estate aforesaid is valued.

Likewise, apart from the fact that the submission of R.A. NYLANDER ESQ. that herein are about Thirteen (13) real properties forming the Estate aforesaid, valued at Twenty (20) Sierra Leone



Leones as seen in page 77 of the Records of Appeal being the Estate value declared, the property at 22 Waterloo Street, alone been valued at Five Point Six Million Sierra Leone Leones (SLL 5.6 Million) which is less than One third of total Estate value aforesaid, seems to be contradictory to his submission above that the Appellant's claim cannot be assessed until the entire Estate is valued, the said submission which suggests that ANNIE MAVIS CAMPBELL, the Administratrix aforesaid, is still yet to utilize her one third share of the total Estate aforesaid, again insinuating that it is only a right to damages which has been conferred on the Appellant herein. This Court holds the view that the submission aforesaid is most preposterous, considering the fact that ANNIE MAVIS CAMPBELL, the Administratrix aforesaid, sold the property at 22 Waterloo Street, Freetown to the Respondent for Five Hundred Million Sierra Leone Leones (SLL 500,000,000.00) as seen from the Deed of Conveyance dated 6th July 2010 and found at pages 48 to 52 of the Records of Appeal herein, which is Twenty Five (25) times over the value of the entire Estate declared.

The analysis above simply re-iterate the fact that the Appellant can maintain the action herein by reason that as stipulated above, she now can bring an action against the Respondent, as the same confers on her a right in rem as opposed to a right in personam, which was the only action she could have maintained originally against ANNIE MAVIS CAMPBELL, the Administratrix aforesaid. Clearly, the submissions above of R.A. NYLANDER ESQ. seems to be suggesting that all what the Appellant is entitled to, is the monetary worth of her equitable interest in the Estate aforesaid, rather than the properties themselves forming part of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate and in particular the property at 22 Waterloo Street, Freetown the subject matter of the action herein. Again confirmation of this could be found in the submission of C. HOTOBAH-DURING ESQ., that the remaining Two-Thirds value of the property at 22 Waterloo Street, Freetown which the Appellant and CLAUDIA CAMPBELL are entitled to, could practically be properly allocated to them by way of offset against either any other physical properties forming part of the Estates aforesaid or the proceeds of the sale of any other physical properties forming part of the said Estate.

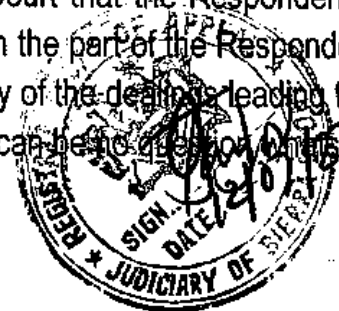
This Court holds the view that the submission of C. HOTOBAH-DURING ESQ. above is most untenable, the same which again basically suggests that all what FLORENCE CAMPBELL, the Appellant and her sister CLAUDIA CAMPBELL who are beneficiaries of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate can get is the Two Thirds value of the property at 22 Waterloo Street, Freetown and can only get it by offsetting the same either from other properties forming part of the Estate aforesaid, or from the proceed of the sale of these other properties but not from the property itself at 22 Waterloo Street Freetown and certainly not from the Respondent herein. It should be pointed out that FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL are both entitled to Two Thirds undivided share of the Estate and every real property forming part of the Estate of the Deceased Intestate aforesaid.



of the total value of the real properties forming part of the Estate aforesaid. In this regard each real property stands on its own and the property which this Court is concerned about in this matter is the one at 22 Waterloo Street, Freetown. The Appellant's claim herein is for her undivided share in 22 Waterloo Street to be restored to her and not its value. Obviously there is no evidence adduced as to the existence of the other real properties forming the Estate aforesaid or their respective values. The undisputed fact is that FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL, still both have Two Thirds undivided share in all the other real properties forming part of the Estate aforesaid and it will be their rights to pursue their Two Thirds undivided share in each and every other real property forming part of the Estate aforesaid, apart from the property at 22 Waterloo Street, subject matter of the action herein.

It is conclusive from the above analysis, that the equitable rights of the Appellant herein in the property at 22 Waterloo Street, Freetown have been advanced almost to the status of legal rights though they would remain vulnerable against a person who had bought the property aforesaid from the legal owner in genuine ignorance of the existence of the Trust created in favour of the said FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL on the appointment of ANNIE MAVIS CAMPBELL as Administratrix of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate. In other words, the equitable rights of the Appellant herein can be pursued against the Respondent herein who bought the property at 22 Waterloo Street, Freetown the said property being Trust property. All the Respondent could do is raise the defence that he bought the property aforesaid from the legal owner in genuine ignorance of the existence of the Trust created aforesaid. Indeed the Respondent herein has raised the defence of Bona Fide Purchaser of a Legal Estate for Value without Notice. In effect, what the Respondent says is that the equitable rights of the Appellant in the property at 22 Waterloo Street, Freetown cannot be good against him by reason that he is a Bona Fide Purchaser of a Legal Estate for Value without Notice. This Court holds the view that the pertinent question then which requires an answer is **'Is MOHAMED TUNDE MACARTHY, the Respondent herein, a Bona Fide Purchaser of the Legal Estate in 22 Waterloo Street, Freetown, for Value without Notice'?**

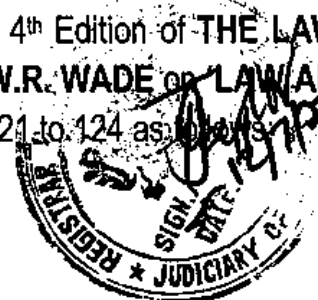
The plea of a purchaser of a legal Estate for value without Notice raised by the Respondent is an absolute, unqualified and unanswerable defence against the claims of the Appellant being a prior equitable owner of the property at 22 Waterloo Street aforesaid. It is a single plea and is not sufficiently made out by proving purchaser for value and leaving to the Appellant to prove notice if she can. The onus of proof of the plea lies with the Respondent entirely. There can be no question whatsoever that there is no evidence adduced at the Lower Court that the Respondent acted in bad faith. There is no evidence of any fraud or sharp practice on the part of the Respondent and or his Solicitor OLIVER O. NYLANDER (of Blessed Memory) in any of the dealings leading to the sale of the property at 22 Waterloo Street aforesaid. Likewise, there can be no question whatsoever that



the Respondent provided consideration in money or money's worth for the sale to him of 22 Waterloo Street, Freetown. In fact and as stated above, it is seen from the Deed of Conveyance in respect of the sale of 22 Waterloo Street aforesaid, found at pages 48 to 52 of the Records of Appeal, that the Respondent paid the sum of Five Hundred Million Sierra Leone Leones (SLL500,000,000.00) as consideration in respect of the sale aforesaid, the same which ANNIE MAVIS CAMPBELL the Administratrix aforesaid acknowledged receipt of. In this regard, the Respondent can be considered as a Bona Fide Purchaser and purchased the property at 22 Waterloo Street, the subject matter of the action herein for Value.

It is most important that the Respondent must have purchased the Legal Estate in the property at 22 Waterloo Street, Freetown. Undisputedly, the Respondent had the Legal Estate in the property vested in him by way of the Deed of Conveyance aforesaid. However the question is '**was it properly vested in him by ANNIE MAVIS CAMPBELL, the Administratrix of the Estate of the Deceased Intestate aforesaid**'? As contained in the Deed of Conveyance aforesaid, ANNIE MAVIS CAMPBELL vested the property at 22 Waterloo Street aforesaid in the Respondent as 'Beneficial Owner' and not as the Administratrix of the Estate aforesaid, as she should have done. It has been determined above that the indefeasible title which the Deceased Intestate had in the property aforesaid, was never passed on to ANNIE MAVIS CAMPBELL on her appointment as Administratrix of the Estate of the Deceased Intestate. All she got on her appointment aforesaid was the legal right or power to administer and distribute the Estate of the Deceased Intestate amongst the beneficiaries in accordance with the **ADMINISTRATION OF ESTATES ACT, CHAPTER 45 OF THE LAWS OF SIERRA LEONE 1960** and in particular, in accordance with the Second Schedule of Section 19 thereof. In other words the Legal Estate of the Deceased Intestate in the property at 22 Waterloo Street, Freetown was never passed on to ANNIE MAVIS CAMPBELL. All what she had, pursuant to the second schedule of Section 19 of **CHAPTER 45** aforesaid and which both Counsel for the Respondent have variously conceded to, is One Third share in the property at 22 Waterloo Street, Freetown. Being that ANNIE MAVIS CAMPBELL could only have vested the remaining Two Thirds undivided share in the property aforesaid in FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL and not the whole in the Respondent herein, this Court holds the view that the Respondent did not purchase the Legal Estate in the property at 22 Waterloo Street, Freetown subject matter of the action herein.

What remains to be determined for the Respondent to successfully defend the claim of the Appellant herein is whether he had Notice. In other words, '**did the Respondent have Notice of any factor tending to show that ANNIE MAVIS CAMPBELL was encumbered from selling to him the property at 22 Waterloo Street aforesaid**'? In the 4th Edition of **THE LAW OF REAL PROPERTY** by **THE HON. SIR ROBERT MEGARRY** and **H.W.R. WADE** on **LAW AND EQUITY** under the rubric '**Without Notice**', it is stipulated from pages 121 to 124 as follows:



'There are three kinds of Notice. A person has actual notice of all facts of which he has (or has had) actual knowledge, however that knowledge was acquired, but he is not regarded as having actual notice of facts which have come to his ears only in the form of vague rumours. A purchaser has constructive notice of a fact, if he had actual notice that there was some encumbrance and a property inquiry would have revealed what it was, or deliberately abstained from inquiry in an attempt to avoid having notice, or omitted by carelessness or for any other reason to make an inquiry which a purchaser acting on skilled advice ought to make and which would have revealed the encumbrance. If a purchaser employs an agent, such as a Solicitor any actual or constructive notice which the agent receives is imputed into the purchaser'.

R.A. NYLANDER ESQ. of Counsel for the Respondent, submitted that the Respondent had no knowledge of any impediment and or legal obstacle to prevent him from purchasing the property at 22 Waterloo Street, Freetown. He submitted further that notwithstanding that there was no sign of any encumbrance or visual obstacle, both the Respondent and his Solicitor undertook due diligence to make sure everything was in place. He references a letter dated 6th January 2010 found at page 69 of the Records of Appeal from OLIVER O. NYLANDER (of Blessed memory) the Solicitors for the Respondent addressed to MRS ANNIE MAVIS CAMPBELL, the Administratrix of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL on the subject '**REQUEST FOR INFORMATION IN RESPECT OF THE ESTATE OF CLAUDE V.M CAMPBELL**' who stated in the same that pursuant to further ongoing negotiations between the said ANNIE MAVIS CAMPBELL and his client, the Respondent, for the purchase and sale of the property at 22 Waterloo Street, Freetown, a copy of the Letters of Administration taken out by the said ANNIE MAVIS CAMPBELL and a Vesting Deed vesting the property aforesaid in herself was presented to his client, the Respondent, OLIVER, O. NYLANDER (of Blessed memory) who observed that there were several properties under the Estate aforesaid and would want to know if the property at 22 Waterloo Street, vested in the name of ANNIE MAVIS CAMPBELL was done with the consent and approval of the other beneficiaries.

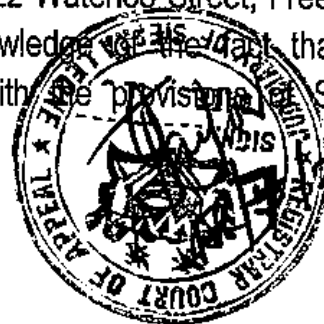
It is clear that from the letter dated 6th January 2020 aforesaid, certain facts had come to the knowledge of OLIVER O. NYLANDER (of Blessed memory), the Solicitor for the Respondent, even before the said letter was written by him. The Letters of Administration taken out by ANNIE MAVIS CAMPBELL which was forwarded to the Respondent, brought to the knowledge of the said Solicitor that ANNIE MAVIS CAMPBELL, the Administratrix of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL became a Trustee charged with the responsibility of administering and distributing the said Estate. The Letters of Administration aforesaid, further brought to the knowledge of the Solicitor for the Respondent that there are several properties forming part of the



Estate aforesaid, including the one at 22 Waterloo Street aforesaid, negotiations for the sale of which was already ongoing between ANNIE MAVIS CAMPBELL, the Administratrix and the Respondent herein. This Court holds the view that even though it cannot be specifically said that it was the Letters of Administration aforesaid which brought to the knowledge of the Solicitor for the Respondent that there were other beneficiaries to the Estate aforesaid apart from ANNIE MAVIS CAMPBELL, it remains a fact that the Solicitor aforesaid had knowledge that there were other beneficiaries to the Estate aforesaid, apart from ANNIE MAVIS CAMPBELL, which said facts, undisputedly came to his knowledge, not in the form of vague rumours as there is no evidence adduced herein suggesting the same.

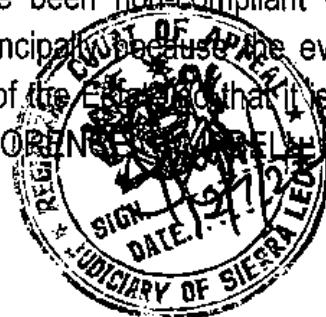
This Court holds the view, that from the question asked by OLIVER O. NYLANDER (of blessed memory) as contained in the letter dated 6th January 2010 aforesaid, whether the consent and approval of the other beneficiaries was sought before ANNIE MAVIS CAMPBELL vested the property of 22 Waterloo Street, Freetown, each and every property stands on its own and the vesting of any of the said properties in anybody would require the same conditions for each of the said properties. In other words, this Court holds the view further that himself being a Solicitor, OLIVER O. NYLANDER (of Blessed Memory) had knowledge of the fact that the law is that ANNIE MAVIS CAMPBELL as Administratrix of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate and as a Trustee having power to distribute the Estate of the Deceased Intestate aforesaid amongst the beneficiaries including herself must do so in accordance with the provisions of the Second Schedule of Section 19 of the **ADMINISTRATION OF ESTATES ACT, CHAPTER 45 OF THE LAW OF SIERRA LEONE 1960** outlined above.

This Court holds the view that the Vesting Deed mentioned in the letter, dated 6th January 2010 vesting the property at 22 Waterloo Street, aforesaid, in ANNIE MAVIS CAMPBELL alone, brought to the knowledge of OLIVER O. NYLANDER (of Blessed Memory) the fact that ANNIE MAVIS CAMPBELL as Administratrix of the Estate aforesaid did not comply with the provisions of the said Second Schedule of Section 19 of **CHAPTER 45** aforesaid. This Court holds the view further, that if it is the case that the Solicitor for the Respondent had knowledge of the fact that ANNIE MAVIS CAMPBELL failed to comply with the provisions aforesaid, he also had knowledge of the fact that she would not be regarded as beneficial owner of the property at 22 Waterloo Street aforesaid, in which case, the said Solicitor had knowledge of the fact that the said ANNIE MAVIS CAMPBELL can only convey to the Respondent as an Administratrix of the Estate aforesaid. This Court holds the view also, that if the Solicitor for the Respondent had knowledge of the fact that ANNIE MAVIS CAMPBELL could have only conveyed the property at 22 Waterloo Street, Freetown aforesaid to the Respondent as Administratrix, then he had knowledge of the fact that ANNIE MAVIS CAMPBELL as Administratrix is bound to comply with the provisions of Section 21 (1) of **CHAPTER 45** aforesaid.



This Court holds the view, that the question asked by OLIVER O. NYLANDER (of Blessed Memory) as contained in the letter dated 6th January 2010 aforesaid, whether the consent and approval of the other beneficiaries was sought before ANNIE MAVIS CAMPBELL vested the property at 22 Waterloo Street, Freetown in herself alone seems to have been a redundant one at the time it was so asked. This is so by reason that from the analysis above it was quite clear to the Solicitor for the Respondent that on the face of the Vesting Deed aforesaid, which Vesting Deed the said Solicitor had with him before the question aforesaid was asked, it was abundantly clear that ANNIE MAVIS CAMPBELL never sought the consent and approval of the said beneficiaries before vesting the property at 22 Waterloo Street in herself and that the said Solicitor knew before asking the question aforesaid, that ANNIE MAVIS CAMPBELL cannot be the sole beneficial owner of the said property and can only convey to the Respondent, the said property as Administratrix of the Estate aforesaid and before so doing must have complied with Section 21 (1) of **CHAPTER 45** aforesaid. In this regard, it can conclusively be said that OLIVER O. NYLANDER (of Blessed Memory), Solicitor for the Respondent had actual Notice of the fact that there was some encumbrance on the part of ANNIE MAVIS CAMPBELL that should have prevented her from selling the property at 22 Waterloo Street, aforesaid.

In response to the letter dated 6th January 2010 aforesaid, is the letter dated 22nd February 2010 found at page 71 of the Records of Appeal, the same from MRS ANNIE MAVIS CAMPBELL addressed to MR OLIVER O. NYLANDER ESQ. the Solicitor for the Respondent, the said ANNIE MAVIS CAMPBELL stating in the same that herself and the other beneficiaries have held several meetings in which they have distributed the Estate aforesaid, they having agreed that the property at 22 Waterloo Street, Freetown, subject of the action herein should belong to her amongst other properties and that the properties at Old Railway Line, Juba Hill, Tengbeh Town and Thomas Street plus vacant land at Malama, Adonkia, Allen Town and Sussex will be shared between the two beneficiaries, FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL whilst the rest of the family will take the rest of the Estate aforesaid. She stated in the said letter that she is still waiting on her children, the beneficiaries aforesaid, the said FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL, to process their papers so that she can sign their Vesting Deed. It is obvious that if it is true that such an agreement was arrived at in a family meeting between ANNIE MAVIS CAMPBELL and the beneficiaries, FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL, either ANNIE MAVIS CAMPBELL might have forgone part of her One Third share or FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL received more than theirs or vice versa, the same which would have been non-compliant with the Second Schedule of Section 19 of **CHAPTER 45** aforesaid, principally because the evidence does not reveal any valuation being done to determine the value of the Estate and that it is not known what share ANNIE MAVIS CAMPBELL had and what share FLORENCE CAMPBELL, the Appellant and

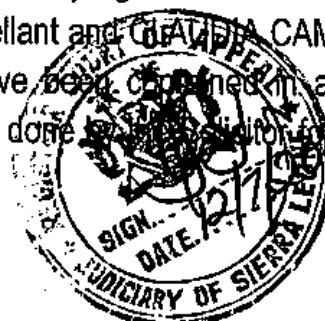


CLAUDIA CAMPBELL had. Clearly, either of them would have had to forgo part of their respective share in the Estate or suffer some detriment by reason that a portion of the said Estate will go to the rest of the family as agreed upon whoever they may be.

Undisputedly, if it is the case as stated above, that either ANNIE MAVIS CAMPBELL or the Appellant and CLAUDIA CAMPBELL forgo part of their respective share in the Estate aforesaid or suffer some detriment, or vice versa then there should have been a corresponding benefit being accrued to that party or parties who suffers some detriment or a corresponding suffering of some detriment to that party or parties who some benefit might have accrued to. The evidence adduced, not having revealed such, clearly implies that the agreement aforesaid arrived at, at the family meeting lacks consideration. If such an agreement is to be a valid one capable of being enforced, notwithstanding the lack of consideration aforesaid, it must be contained in a Deed since it is only when the said agreement is done by Deed that it would become enforceable by any of the parties herein. Moreover, it is trite law that any agreement entered into for the transfer of title to land must be evidenced in writing. It stands to reason that if indeed there was a family meeting between the said ANNIE MAVIS CAMPBELL and the beneficiaries, FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL, in which the agreement for the distribution of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate was arrived at, then the precise details of such an agreement should be contained in a Deed signed by all the parties.

Having stated as above that OLIVER O. NYLANDER (of Blessed Memory) the Solicitor for the Respondent had actual Notice of the fact that there were some encumbrance on the part of ANNIE MAVIS CAMPBELL that should have prevented her from selling the property at 22 Waterloo Street aforesaid, the answer given by ANNIE MAVIS CAMPBELL as contained in her letter dated 22nd February 2010 in response to the letter dated 6th January 2010 from the Solicitor for the Respondent, presented to the said Solicitor, an opportunity to make a proper inquiry since such inquiry would definitely have revealed whether the agreement arrived at the family meeting aforesaid, between ANNIE MAVIS CAMPBELL and the beneficiaries FLORENCE CAMPBELL, the Appellant herein and CLAUDIA CAMPBELL was contained in a Deed.

This Court holds the view that the statement made by ANNIE MAVIS CAMPBELL in her letter dated 22nd February 2010 that she is still waiting on her children, the Appellant and CLAUDIA CAMPBELL to process their papers so that she can sign their Vesting Deed should have raised a red flag, provoking the Solicitor for the Respondent in making proper inquiries from the said ANNIE MAVIS CAMPBELL as to the existence of a Deed of the Family Agreement arrived at aforesaid, or from the beneficiaries FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL as to the Family Agreement arrived at aforesaid, that should have been contained in a Deed. There is absolutely no evidence adduced that such inquiries were done by the Solicitor for the Respondent



or indeed any evidence adduced of the existence of such a Deed. What R.A. NYLANDER ESQ. submits was done, as he calls it, was a due diligence inquiry. He referenced a document dated 4th January 2010 found at page 73 of the Records of Appeal issued by OLIVER O. NYLANDER (of Blessed memory), the Solicitor for the Respondent being 'PUBLIC NOTICE' stating that the public is hereby requested by DR MOHAMED TUNDE MACARTHY, the Respondent to come forward with any information contrary to the ownership by MRS ANNIE MAVIS CAMPBELL of all that property at 22 Waterloo Street, Freetown. The said document as R.A. NYLANDER ESQ. claims, was put out and aired by STAR RADIO who issued a Receipt dated 4th January 2010 acknowledging the sum of One Million Sierra Leone Leones (SLL 1,000,000.00) from the Respondent through his Solicitor OLIVER O. NYLANDER for Public Notice announcement for a period of One (1) month, the said receipt found at page 74 of the Record of Appeal.

This Court upholds the submission of R. JOHNSON ESQ. of Counsel for the Appellant that there is absolutely no evidence whatsoever adduced that the Public Notice aforesaid was put out and aired by STAR RADIO for One (1) month and that even if the said Public Notice was put out and aired, there is absolutely no evidence whatsoever adduced that any member of the Public or indeed the Appellant and or CLAUDIA CAMPBELL got notice of the putting out and airing of the Public Notice aforesaid. Having said that Solicitor for the Respondent had actual Notice of the fact that there was some encumbrance on the part of ANNIE MAVIS CAMPBELL, that should have prevented her from selling the property at 22 Waterloo Street aforesaid and having said that a proper inquiry would have revealed whether in fact an agreement at a family meeting that the property at 22 Waterloo Street Freetown be vested in ANNIE MAVIS CAMPBELL was reached or a Deed executed in that regard in existence, which proper inquiry aforesaid would have revealed the encumbrance that ANNIE MAVIS CAMPBELL did not have the consent and approval of the Appellant and CLAUDIA CAMPBELL to sell the property at 22 Waterloo Street, Freetown aforesaid, it stands to reason that, OLIVER O. NYLANDER (of Blessed Memory), Solicitor for the Respondent could only have deliberately abstained from inquiring in an attempt to avoid having Notice or omitted by carelessness or for any other reason to make such an inquiry which would have revealed that ANNIE MAVIS CAMPBELL did not have the consent and approval of the Appellant and CLAUDIA CAMPBELL to sell the property at 22 Waterloo Street, Freetown.

Consequently, this Court holds the view that the Solicitor for the Respondent had constructive Notice of the encumbrance aforesaid, on the part of ANNIE MAVIS CAMPBELL, the Administratrix of the Estate of CLAUDIA VICTOR MELVINSON CAMPBELL. OLIVER O. NYLANDER (of Blessed Memory) having been employed as his Solicitor, the constructive Notice aforesaid which was received by him is imputed into the Respondent herein by virtue of Section 3 (1) (i) and (ii) of the **CONVEYANCING AND LAW OF PROPERTY ACT 1882**, the same which provides thus:





'A purchaser shall not be prejudicially affected by Notice of any instrument, facts, or thing unless it is within his own knowledge or would have come to his knowledge if such inquiries and inspections had been made or ought reasonably to have been made by him or in the same transaction with respect to which a question of notice to the purchaser arises, it has come to the knowledge of his Counsel, as such or of his Solicitor, or other agent as such, or would have come to the knowledge of his Solicitor or other agent as such if such enquiries and inspections had been made or ought reasonably to have been made by the Solicitor or other agents'.

The above stipulates that the Respondent shall not be prejudicially affected by Notice of any instrument, facts or things unless it would have come to the knowledge of his Solicitor as such if such enquiries and inspections had been made as ought reasonably to have been made by the Solicitor. It has been conclusively determined above that had OLIVER O. NYLANDER (of Blessed Memory) made proper enquiries the same would have revealed whether an agreement at a family meeting that the property at 22 Waterloo Street be vested in ANNIE MAVIS CAMPBELL alone was reached or a Deed executed in that regard was in existence, the said inquiry which would have revealed the encumbrance that ANNIE MAVIS CAMPBELL did not have the consent and approval of FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL to sell the property at 22 Waterloo Street, Freetown, the said Respondent who in this regard shall become prejudicially affected by Notice of such encumbrance on the part of ANNIE MAVIS CAMPBELL. Having held as above, this Court holds the view that the Respondent did not purchase the Legal Estate in the property at 22 Waterloo Street, Freetown, the subject matter of the action herein and that the said Respondent had Constructive Notice that ANNIE MAVIS CAMPBELL, the Administratrix of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL did not have the consent and approval of FLORENCE CAMPBELL, the Appellant herein and CLAUDIA CAMPBELL to sell the property at 22 Waterloo Street aforesaid, by reason of which, the said Respondent cannot be a Bona Fide Purchaser of a Legal Estate for Value without Notice. His Defence as such fails in its entirety.

By reason of the above, all Five (5) grounds of the Appellant's appeal of the Decision/Judgement of the High Court delivered by the **HON. MRS. JUSTICE MUSU D. KAMARA JA**, the Learned Trial Judge dated 27th May 2019 hereby succeeds, the same which are hereby upheld by this Court, the said appeal which is hereby allowed. Consequently the said Decision/Judgement is hereby wholly set aside and shall be replaced by orders, further and consequential, consideration of which is contained hereunder.

Having determined that ANNIE MAVIS CAMPBELL, the Administratrix of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL Deceased Intestate, was not entitled to vest all that property situated at 22 Waterloo Street in herself to the exclusion of FLORENCE CAMPBELL, the Appellant



and CLAUDIA CAMPBELL, the other beneficiaries of the Estate of the Deceased Intestate aforesaid, by way of the Vesting Deed dated 9th May 2006, registered at Page 18 in Volume 603 of the Record Books of Conveyances kept in the Office of the Registrar General in Freetown, the Appellant is entitled to an order that the vesting of the said property by the said ANNIE MAVIS CAMPBELL be declared **INVALID, NULL and VOID** and of **NO EFFECT**, and that the said Vesting Deed be set aside and expunged from the Record Books of Conveyances. Having further determined that compliance with Section 21 (1) of the **ADMINISTRATION OF ESTATES ACT, CHAPTER 45 OF THE LAW OF SIERRA LEONE 1960** is Mandatory and that the sale of the property forming part of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate at 22 Waterloo Street Freetown, was conducted without the consent of FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL, the other beneficiaries of the said Estate or without obtaining an order of the Court or a Judge authorising the sale aforesaid, by ANNIE MAVIS CAMPBELL, the Administratrix of the Estate of the Deceased Intestate aforesaid, to the Respondent and having determined also that the said Respondent cannot be a Bona Fide Purchaser of a Legal Estate for Value without Notice, the Appellant is entitled to an order that the sale aforesaid, be declared **INVALID, NULL and VOID** and of **NO EFFECT** and that the Deed of Conveyance dated 6th July 2010 and made between the said ANNIE MAVIS CAMPBELL and the Respondent and registered at page 42 in Volume 663 of the Record Books of Conveyances kept in the Office of the Registrar General in Freetown, in respect of the property forming part of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate situated at 22 Waterloo Street, Freetown, be set aside and expunged from the said Record Books of Conveyances. Consequently, the Appellant is entitled to an order that the property aforesaid be immediately recovered from the Respondent by the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate. The Appellant is also entitled to an order for Costs

By reason of the above it is hereby **ADJUDGED** and **ORDERED** as follows:

1. It is hereby **DECLARED** that the vesting of all that property situated at 22 Waterloo Street Freetown in the Western Area of Sierra Leone, the subject matter of the appeal herein, by ANNIE MAVIS CAMPBELL, the Administratrix of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL Deceased Intestate, in herself to the exclusion of FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL, the other beneficiaries of the Estate of the Deceased Intestate aforesaid, by way of the Vesting Deed dated 9th May 2006, registered at Page 18 in Volume 603 of the Record Books of Conveyances kept in the Office of the Registrar General in Freetown, is **INVALID, NULL and VOID** and of **NO EFFECT**, and that the said Vesting Deed is hereby **SET ASIDE AND ORDERED** to be expunged from the Record Books of Conveyances aforesaid.



2. It is hereby **DECLARED** that the sale of the property forming part of the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate at 22 Waterloo Street Freetown aforesaid, without the consent of FLORENCE CAMPBELL, the Appellant and CLAUDIA CAMPBELL, the other beneficiaries of the said Estate or without obtaining an order of the Court or a Judge authorising the sale aforesaid, by ANNIE MAVIS CAMPBELL, the Administratrix of the Estate of the Deceased Intestate aforesaid, to MOHAMED TUNDE MARCATHY, the Respondent is **INVALID, NULL and VOID** and of **NO EFFECT** and that the Deed of Conveyance dated 6th July 2010 and made between the said ANNIE MAVIS CAMPBELL and the said Respondent and registered at page 42 in Volume 663 of the Record Books of Conveyances kept in the Office of the Registrar General in Freetown, in respect of the property aforesaid, is hereby **SET ASIDE** and **ORDERED** to be expunged from the said Record Books of Conveyances aforesaid.

3. That the property at 22 Waterloo Street Freetown aforesaid, be immediately **RECOVERED** from the said Respondent and all those whom the said Respondent has allowed occupation of, by the Estate of CLAUDE VICTOR MELVINSON CAMPBELL (Deceased) Intestate.

4. That the Costs of and occasioned by the appeal herein and at the Court below be **BORNE** by the said Respondent, the same which is to be taxed if not agreed upon.

A. B. Halloway

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HON. MR. JUSTICE ALLAN B. HALLOWAY JSC

J. King

I AGREE.....
HON. MRS. JUSTICE JAMESINA E.L. KING JA

F. Bintu Alhadi

I AGREE.....
HON. MRS. JUSTICE F. BINTU ALHADI JA

